IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.910/2004

Reserved on.25.5.2007

Decided on. 13.7.2007

Harmesh Singh **…Petitioner.**

Versus

State of H.P. & others. **…Respondents**

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?[1]*.yes.*

For the petitioner : In person.

For the respondents Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocate Generals.

Rajiv Sharma, J.

The brief facts necessary for the adjudication of this petition are that the petitioner's wife Smt. Kiran Bala, Female Health Worker, died on 27.9.2000. The petitioner had made representation to respondent No.5 for the release of family pension, death-cum-retirement gratuity, GPF etc. on 28.1.2002. He made representation to the respondents No.2 to 5 on 6th March, 2002 for the release of retiral benefits after the death of his wife on 27.9.2000. He sent a reminder to the respondents No.2 to 5 on 10.7.2002 reiterating his prayer for release of retiral benefits. He also made a representation to the Chief Secretary on 14th October, 2003. Finally a notice was sent by him to the respondents on 14.11.2003 reiterating his earlier prayer.

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? yes.

Mr. Harmesh Singh, petitioner, had appeared in person and had submitted that firstly he is entitled to family pension after the death of his wife on 27.9.2000 as per the CCS (Pension) Rules, 1972. Secondly, he is entitled to death-cum-retirement gratuity as per the provisions of CCS (Pension) Rules, 1972. Thirdly, he is entitled to the amount of provident fund as per the provisions of General Provident Fund Rules, 1960. Fourthly, he is entitled to the amount under the H.P. Government Employees Group Insurance Scheme, 1984.

The learned Advocate General had strenuously argued that the matter should have been urged by the petitioner before the H.P. State Administrative Tribunal since it is a service matter covered under the provisions of the H.P. Administrative Tribunal Act, 1985. He had also contended that as far as the payment of family pension, death-cum-retirement gratuity and amount under the H.P. Government Employees Group Insurance Scheme, 1984 are concerned, there is a dispute amongst the members of the family and the same cannot be released till the petitioner obtains succession certificate from the competent court of law. As far as the amount of GPF is concerned, the learned Advocate General had submitted that since the nomination has been made by Smt. Kiran Bala in favour of her sons, the petitioner is not entitled to get any amount from the provident fund account of late Smt. Kiran Bala.

I have heard the learned counsel for the parties and have perused the record.

The petitioner's wife had died on 27.9.2000 while working as Female Health Worker. The family pension is to be paid as per Rule 54 of the CCS (Pension) Rules, 1972. Sub rule (6) (i) of Rule 54 provides that the family pension is payable in case of a widow or widower, up to the date of death or re-marriage, whichever is earlier. Sub-rule 8 (i) of Rule

54 provides that except as provided in sub-rule (7), the family pension shall not be payable to more than one member of the family at the same time and whereas sub-rule (8) (ii) provides that if a deceased Government servant or pensioner leaves behind a widow or widower, the family pension shall become payable to the widow or widower, failing which to the eligible child. Sub-rule (14) (b) of Rule 54 defines family in relation to a Government servant to mean wife in the case of a male Government servant, or husband in the case of a female Government servant. Rule 77 of the CCS (Pension) Rules, 1972 also provides that where the family of a deceased Government servant is eligible under Rule 54 for the family pension, the Head of Office shall address the widow or widower in Form 13 for making a claim in Form 14 to enable him to get the family pension.

It is evident from the combined reading of sub-rules (6) (i), (8) (i) (ii), (14) (b) (i) of Rule 54 that family pension in relation to a male Government servant or husband in case of a female Government servant shall become payable to the widow or widower and the same is to be paid up to the date of death in case of widow or widower or re-marriage whichever is earlier. Thus, the petitioner is entitled to a family pension after the death of his wife on 27.9.2000 without the production of succession certificate.

Now, the Court has to consider whether the death-cum-retirement gratuity (DCRG) could be withheld by the respondents when no nomination was made by late Smt. Kiran Bala. Rule 50 of the CCS (Pension) Rules, 1972 deals with retirement/death gratuity. Sub-rule (6) of Rule 50 defines the expression family in relation to a Government servant as under:

(i) wife or wives including judicially separated wife or wives in the case of a male Government servant,

(ii) husband, including judicially separated husband in the case of a female Government servant,

(iii) sons including stepsons and adopted sons,

(iv) unmarried daughters including stepdaughters and adopted daughters,

(v) widowed daughters including step-daughters and adopted daughters,

(vi) Father] including adopted parents in the case of

(vii) Mother,] individuals whose persons law permits adoption.

(viii) Brothers below the age of eighteen years including stepbrothers,

(ix) Unmarried sisters and widowed sisters including stepsisters,

(x) Married daughters, and

(xi) Children or a pre-deceased son."

Rule 51 prescribes the persons to whom gratuity is payable. Rule 51 (1) (a) provides that the gratuity payable under Rule 50 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under Rule 53. Rule 51 (1) (b) provides that if there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid (i) if there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (6) of Rule 50, to all such members in equal shares; and (ii) if there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in Clauses (v), (vi), (vii), (viii), (ix), (x) and (xi) of sub-rule (6) of Rule 50, to all such members in equal shares.

Admittedly, deceased Smt. Kiran Bala had not made any nomination with regard to the payment of gratuity. In this eventuality, the petitioner is entitled to get equal share from the payment of gratuity. On the plain reading of Rule 50 (6) read with Rule 51, sub-rule (1), the

petitioner and his sons are entitled to equal shares and there is no requirement of succession certificate as insisted upon by the State.

The Court has now to consider whether the State could restrict the payment of provident fund to the sons on the basis of the nomination made as per Annexure R-3/1 or the petitioner was also entitled to the same despite there being no nomination in his favour. The payment of provident fund is regulated under the General Provident Fund (Central Services) Rules, 1960. Rule 2 (1) (c) defines the family as under:

"Family: means-

(i) in the case of a male subscriber, the wife or wives, parents, children, minor brothers, unmarried sisters, deceased son's widow and children and where no parents of the subscriber is alive, a paternal grandparent:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community, to which she belongs to be entitled to maintenance she shall henceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate unless the subscriber subsequently intimates, in writing to the Accounts Officer that she shall continue to be so regarded;

(ii) in the case of a female subscriber, the husband, parents, children, minor brothers, unmarried sisters, deceased son's widow and children and where no parents of the subscriber is alive, a paternal grandparent:

Provided that if a subscriber by notice in writing to the Accounts Officer expresses her desire to exclude her husband from her family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family in matter to which these rules relate, unless the subscriber subsequently cancels such notice in writing."

Rule 5 of the General Provident Fund (Central Services) Rules, 1960 deals with nominations and Rule 33 provides procedure to be filed on death of a subscriber. In the present case the petitioner will be entitled to get his share of the provident fund even though no nomination was made in his favour. The nomination is only for the purpose of receiving the money. The Hon'ble Supreme Court in Sarbati Devi v. Usha Devi, AIR 1984 SC 345 has held as under:

> **"Moreover there is one other strong circumstance in this case which dissuades us from taking a view contrary to the decisions of all other High Courts and accepting the view expressed by the Delhi High Court in the two recent judgments delivered in the year 1978 and in the year 1982. The Act has been in force from the year 1938 and all along almost all the High Courts in India have taken the view that a mere nomination effected under section 39 does not deprive the heirs of their rights in the amount payable under a life insurance policy. Yet parliament has not chosen to make any amendment to the Act. In such a situation unless there are strong and compelling reasons to hold that all these decisions are wholly erroneous, the Court should be slow to take a different view. The reasons given by the Delhi High Court are convincing. We, therefore, hold that the judgments of the Delhi High Court in Fauja Singh's case (AIR 1978 Delhi 276) (supra) and in Mrs. Uma Sehgal's case (AIR 1982 Delhi 36) (supra) do not lay down the law correctly. They are, therefore, overruled. We approve the views expressed by the other High Courts on the meaning of Section 39 of the Act and hold that a mere nomination made under Section 39 of the Act does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorized to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs**

of the assured in accordance with the law of succession governing them.

The Court is also to consider whether the petitioner is entitled for the amount due on the basis of group insurance scheme of his wife under the H.P. Government Employees Group Insurance Scheme, 1984. Rule 19 of the Scheme provides that the Head Office shall obtain from every Government servant, who is a member of the Scheme a nomination conferring on one or more persons, the right to receive the amount that may become payable under this Scheme in the event of his death before attaining the age of superannuation. The expression family has been assigned the same meaning to it as in the General Provident Fund (Central Services) Rules, 1960, the same has already been quoted above. It is clear from the reading of definition of family and as per the General Provident Fund (Central Services) Rules, 1960 that in case of a female subscriber, the husband, parents, children, minor brothers, unmarried sisters, deceased son's widow and children and where no parents of the subscriber is alive, a paternal grandparent will fall within the ambit of family. The widow had not filed any nomination as per Rule 19 of the Scheme but she had made subscription as per the scheme and as per the meaning given to the word 'family', the petitioner-husband is entitled to get the amount under the Scheme with his sons in equal shares as per Rule 19.8 of the Scheme.

The plea taken by the learned Advocate General that the petitioner should have approached the H.P. State Administrative Tribunal for the redressal of his grievance is un-tenable in view of the language employed in Article 323-A of the Constitution of India read with section 14, 15, 19 and 20 of the Administrative Tribunal Act, 1985. It will be apt to take note of Article 323-A of the Constitution of India which has been inserted in the

Constitution with effect from 3rd January, 1977. Article 323-A reads as under:

> **"323A. Administrative tribunals.- Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.**
>
> **(2) A law made under clause (1) may-**
>
> **(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;**
>
> **(b) specify the jurisdiction, powers (including the power to punish for contempt)and authority which may be exercised by each of the said tribunals;**
>
> **(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;**
>
> **(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);**
>
> **(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the cause of action on which such suits or proceedings are based had arisen after such establishment;**
>
> **(f) repeal or amend any order made by the President under clause (3) of article 371D;**
>
> **(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.**

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force."

The provisions of the Administrative Tribunal Act, 1985 as far as they relate to Central Administrative Tribunal came into force on 1st July, 1985 and the provisions of the Administrative Tribunal Act, as far as they relate to the H.P. State Administrative Tribunal Act came into force with effect from 1.1.1985. It will be pertinent to reproduce the statement of Objects and Reasons of the Administrative Tribunal Act, 1985 along with its preamble as under:

"Article 323A of the Constitution stipulates that Parliament may, by law, provide for the adjudication or trial by Administrative Tribunal of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation owned or controlled by the Government.

2. The Bill seeks to give effect to the aforesaid constitutional provision by providing for the establishment of an Administrative Tribunal for the Union and a separate Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States. The Bill also provides for-

(a) the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each Tribunal;

(b) the procedure (including provision as to limitation and rules of evidence) to be followed by the State Tribunals;

(c) exclusion of the jurisdiction of all courts, except that of the Supreme Court under article 136 of the Constitution relating to service matters;

(d) the transfer to each Administrative Tribunal of any suit or other proceedings pending before any court or other authority immediately before the establishment of such

Tribunal as would have been within the jurisdiction of such Tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment.

3. The establishment of Administrative Tribunal under the aforesaid provision of the Constitution has become necessary since a large number of cases relating to service matters are pending before the various courts. It is expected that the setting up of such Administrative Tribunals to deal exclusively with service matters would go a long way in not only reducing the burden of the various courts and there by giving them more time to deal with other cases expeditiously but would also provide to the persons covered by the Administrative Tribunals speedy relief in respect of their grievances.

Preamble:

An Act to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public service and posts in connection with the affairs of the union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of [any corporation or society owned or controlled by the Government in pursuance of Article 323A of the Constitution] and for matters connected therewith or incidental thereto."

Section 3 (q) of the Administrative Tribunals Act, 1985 defines the service matters as under"

"service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the government, as respects-

i. **remuneration (including allowances), pension and other retirement benefits;**

ii. **tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;**
iii. **leave of any kind;**
iv. **disciplinary matters; or**
v. **any other matter whatsoever;**

Section 15 of the Administrative Tribunal Act, 1985 deals with the jurisdiction, powers and authority of the State Administrative Tribunals and the same is reproduced as under:

"15. Jurisdiction, powers and authority of State Administrative Tribunals.- (1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to-

a) **recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;**
b) **all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the state Government or of any corporation [or society] owned or controlled by the state Government;**
c) **all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation [or society] or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.**

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations [or societies] controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this act, different dates may be so specified under this sub-section in respect of different clauses of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to-

a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

b) all service matters concerning a person [other than a person referred to in clause (b) of sub-section (1) of this section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.

4. For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable."

Section 19 of the Administrative Tribunals Act, 1985 lays down the procedure for submission of applications to Tribunal and the same is reads as under:

> **"19. Applications to Tribunals.- (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.**
>
> ***Explanation*.- For the purposes of this sub-section, "order" means an order made-**
>
> **a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government, or**
>
> **b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a).**
>
> **(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) [in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Government]**
>
> **[(3) On receipt of an application under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons.]**
>
> **(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules."**

Section 20 of the Administrative Tribunals Act, 1985 provides that the application shall not be admitted unless other remedies exhausted. The same reads as under:

> **"20. Applications not to be admitted unless other remedies exhausted.- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.**
>
> **(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-**
>
> **a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or**
>
> **b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.**
>
> **(3) For the purposes of sub-section (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."**

It is evident from the combined reading of Article 323A of the Constitution of India in conjunction with sub-section 3(q), Sections 15 and 19 of the Administrative Tribunal Act, 1985 that the word used is "person". Section 19 of the Act ibid particularly provides that subject to the other provisions of the Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the

Tribunal for the redressal of his grievance. An application can be brought before the Tribunal only by a person aggrieved of any order which falls within the jurisdiction of the Tribunal. The word order has been defined in explanation to sub section (1) of section 19. The Apex Court has held in ***Dr. Duryodhan Sahu and others Versus Jitendra Kumar Mishra and others***, (1998) 7 SCC 273 that the petition can be brought before the Tribunal only when the person is aggrieved as defined in the various provisions of the Administrative tribunal Act, 1985. Their Lordships have held as under:

> **"Section 14 of the Act provides that the Central Administrative Tribunal shall exercise all the jurisdiction, powers and authority exercisable by all courts except the Supreme Court immediately before the appointed day in relation to matters set out in section. Similarly, Section 15 provides for the jurisdiction, powers and authority of the State Administrative Tribunals in relation to matters set out therein. Sections 19 to 27 of the Act deal with the procedure. Section 19 strikes the keynote. Sub-sections (1) and (4) of Section 19 are in the following terms:**
>
> > **"19. Applications to Tribunals.- (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.**
>
> ***Explanation*.- For the purposes of this sub-section, "order" means an order made-**
>
> **a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [or society] owned or controlled by the Government, or**
>
> **b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [or society] referred to in clause (a).**
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> *** * ***

> **19. (4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules."**

Section 20 provides that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant rules. Section 21 provides for a period of limitation for approaching the Tribunal. A perusal of the above provisions shows that the Tribunal can be approached only by "persons aggrieved" by an order as defined. The crucial expression "person aggrieved" has to be construed in the context of the Act and the facts of the case.

In Thammanna v. K. Veera Reddy **it was held that although the meaning of the expression "person aggrieved" may vary according to the context of the statute and the facts of the case, nevertheless normally, a person aggrieved must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his title to something.**

In Jasbhai Motibhai Desai v. Roshan Kumar the Court held that the expression "aggrieved person" denotes an elastic, and to an extent, an elusive concept. The Court observed: (SCC p.677, para 13)

> **"….. It cannot be confined within the bounds of a rigid, exact, and comprehensive definition. At best, its features can be described in a broad tentative manner. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the petitioner's interest, and the nature and extent of the prejudice or injury suffered by him."**

The constitution of Administrative Tribunals was necessitated because of the large pendency of cases relating to service matters in various courts in the country. It was expected that the setting up of Administrative Tribunals to deal exclusively in service matters would go a long way in not only reducing the burden of the courts but also provide to the persons covered by the Tribunals speedy relief in respect of their grievances. The basic idea as evident from the various provisions of the Act is that the Tribunal should quickly redress the grievances in relation to service matters. The definition of "service matters" found in Section 3 (q) shows that in relation to a person, the expression means all service matters relating to the conditions of his service. The significance of the word "his" cannot be ignored. Section 3 (b) defines the word "application" as an application made under section 19. The latter section refers to "person aggrieved". In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. We have already seen that the word 'order' has been defined in the explanation to sub-section (1) of section 19 so that all matters referred to in Section 3 (q) as service matters could be brought before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated."

In view of the law laid down by the Hon'ble Apex Court in Dr. Duryodhan Sahu's case the person aggrieved will be a person, who is a holder of a civil post under the State or appointed to any civil services by the State and pertaining to the service of such person in connection with the affairs of the State. The petitioner is the husband of late Smt. Kiran Bala and cannot be treated as a person aggrieved within the ambit of the Administrative Tribunal Act, 1985. He is neither holding a civil post nor is he discharging the duties in connection with the affairs of the State. As

such he had right to approach the Court for redressal of his grievance for the payment of retiral benefits after the death of his wife.

The upshot of the above discussion is that the petitioner is entitled to get the family pension with effect from 28.9.2000 with interest @ 9% per annum. The petitioner is entitled to get gratuity with interest @ 9% per annum in equal share with his sons. The petitioner is also entitled to the provident fund in equal share with his sons. He is entitled to equal share in the amount accrued under the H.P. Government Employees Group Insurance Scheme, 1984 with his sons.

Accordingly the writ petition is allowed. The respondents are directed to release the family pension to the petitioner with effect from 28.9.2000 with interest @ 9% per annum. The respondents are also directed to release the gratuity in favour of the petitioner in equal share with his sons with interest @ 9% per annum. The respondents are further directed to release provident fund and the amount accrued under the Group Insurance Scheme to the petitioner in equal shares with his sons. The respondents are directed to pay the dues to the petitioner as directed hereinabove within a period of four weeks. The petitioner is also held entitled to the costs, which are quantified at Rs. 5,000/-.

(Rajiv Sharma), Judge

July 13, 2007
Awasthi